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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,452

03/28/2007

Graham Joseph Peck

430500-12

6575

27162

7590

09/04/2008

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EXAMINER

WEN, SHARON X

ART UNIT

PAPER NUMBER

1644

MAIL DATE

DELIVERY MODE

09/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/582,452	<b>Applicant(s)</b> PECK ET AL.	
	<b>Examiner</b> SHARON WEN	<b>Art Unit</b> 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 4,7,8 and 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-6, 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/14/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-12 are pending.

### ***Election/Restrictions***

2. Applicant's election of Group I and species canine and inflammatory gastrointestinal diseases in the reply filed on 07/14/2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

In the interest of compact prosecution, the search has been extended to feline and arthritis.

Claims 4, 7, 8 and 10-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Inventions/species, there being no allowable generic or linking claim.

Claims 1-3, 5, 6 and 9 are currently under examination as they read on a method of veterinary treatment of a mammal comprising administering a serum composition obtained from a goat after challenge with an immunogen.

### ***Priority***

3. The domestic priority date for claims 1-3, 5, 6 and 9 is deemed the effective filing date of PCT/GB04/50040, i.e., 12/10/2004.

Applicant's claim for foreign priority is acknowledged. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. However, upon examination, the UK applications, 0328650.7, 0404533.2 and 0404534.0 do not appear to provide sufficient written support for claim 6 in the recitation of "inflammatory gastrointestinal disease". Should Applicant disagree with the Examiner's factual determination above, it is incumbent upon Applicant to provide a showing that specifically supports the instant claim limitations.

#### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on 08/14/2006 is being considered by the examiner.

#### ***Specification***

5. Applicant is requested to review the application for spelling error, the use of trademarks, embedded hyperlinks and/or other form of browser-executable code.

Trademarks should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Embedded hyperlinks and/or other form of browser-executable code are impermissible in the text of the application as they represent an improper incorporation by reference.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 5, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Heeney et al. (WO 03/064472 A2, cited on IDS, see entire document).

Heeney et al. teach administering goat serum obtained from a goat immunized with killed viral lysate to mammals including canines and felines for treating autoimmune diseases involving gastrointestinal tract which reads on inflammatory gastrointestinal disease and arthritis (see, e.g., page 7, paragraph 4; page 9, paragraph 1; page 10, paragraph 4; page 16, paragraph 4; and page 29, section under “Treatment of non-human animals”; and page 40, claims 1-9).

***Conclusion***

8. No claim is allowed.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON WEN whose telephone number is (571)270-3064. The examiner can normally be reached on Monday-Thursday, 8:30AM-6:00PM, ALT. Friday, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen O'Hara can be reached on (571)272-0878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sharon Wen, Ph.D./  
Examiner, Art Unit 1644  
August 27, 2008

/Phillip Gambel/

Phillip Gambel, Ph.D., J.D.

Primary Examiner

Technology Center 1600

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August 31, 2008

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